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9	BEFORE THE
10	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
11	STATE OF CALIFORNIA
12	In the Matter of the Accusation Against: Case No. 2010-41
13	EUGENE DIZON GOMEZ A C C U S A T I O N
14	17914 Los Pesos Circle Fountain Valley, CA 92708
15	Registered Nurse License No. 683900
16	Respondent.
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18	Complainant alleges:
19	PARTIES
20	1. Heidi J. Goodman (Complainant) brings this Accusation solely in her official capacity
21	as the Assistant Executive Officer of the Board of Registered Nursing, Department of Consumer
22	Affairs.
23	2. On or about July 19, 2006, the Board of Registered Nursing issued Registered Nurse
24	License Number 683900 to Eugene Dizon Gomez (Respondent). The Registered Nurse License
25	was in full force and effect at all times relevant to the charges brought herein and will expire on
26	August 9, 2009, unless renewed.
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JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

- 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

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1	8. Section 2761 of the Code states:
2	The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:
3	(a) Unprofessional conduct, which includes, but is not limited to, the
4	following:
5	••••
6	(f) Conviction of a felony or of any offense substantially related to the
7	qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
8	••••
9	REGULATORY PROVISIONS
10	9. California Code of Regulations, title 16, section 1444, states:
11	A conviction or act shall be considered to be substantially related to the
12	qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a
13	manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:
14	(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
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16	(b) Failure to comply with any mandatory reporting requirements.
17	(c) Theft, dishonesty, fraud, or deceit.
18	(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.
19	10. California Code of Regulations, Title 16, section 1445 states:
20	••••
21	(b) When considering the suspension or revocation of a license on the grounds
22	that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the
23	following criteria:
24	(1) Nature and severity of the act(s) or offense(s).
25	(2) Total criminal record.
26	(3) The time that has elapsed since commission of the act(s) or offense(s).
27	(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
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- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
 - (6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(October 2, 2007 Criminal Conviction for Domestic Battery on August 12, 2007)

- 12. Respondent has subjected his license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:
- a. On or about October 2, 2007, in a criminal proceeding entitled *People of the State of California v. Eugene Dizon Gomez*, in Orange County Superior Court, case number 07HM06559, Respondent was convicted on his plea of guilty of violating Penal Code section 273.5, subdivision (a), domestic battery with corporal injury, a misdemeanor.
- b. As a result of the conviction, on or about October 2, 2007, Respondent was sentenced to three years informal probation, 30 days in the Orange County Jail or complete 30 days service with CalTrans in lieu of jail, eight hours community service, completion of a Domestic Violence Batterer's Treatment Program, and payment of fees, fines, and restitution in the amount of \$1,155. Respondent was further ordered to submit to a Fourth Amendment waiver, not own or possess firearms for 10 years, and standard probation terms.
- c. The facts that led to the conviction were that on or about August 13, 2007, Respondent's wife (hereinafter "DOE") went to the Irvine Police Department to report a domestic battery committed by Respondent, her husband. According to DOE, the couple had been having marital problems for the previous 2-3 weeks. The night before, shortly after midnight, Respondent came into the master bedroom where she was asleep with her daughter next

to her. Respondent began punching her all over her body with closed fists. DOE kicked at Respondent in an effort to push him away. DOE stated that she was going to seek a divorce. This enraged Respondent and he continued to punch her with closed fists. DOE stated the altercation consisted of three "rounds." Respondent left the room and DOE placed items Respondent would need in the morning outside the bedroom door and locked it. DOE had all three children in the bedroom with her. The next morning, Respondent pounded on the door demanding entry and yelling; the children were extremely fearful. The officer had photographs taken of DOE's injuries which included bruises on the victim's left calf and thigh, bruises on the victim's upper and lower right arm, bruises on the victim's upper left arm, a bump on top of the victim's head, and multiple small scratches. Based on DOE's injuries, the Irvine Police Department issued a temporary restraining order and dispatched officers to the couple's residence where they spoke to Respondent. Respondent confirmed that he had battered his wife and was placed under arrest.

SECOND CAUSE FOR DISCIPLINE

(Assaultive Conduct)

13. Respondent is subject to disciplinary action under section 2761, subdivision (a), unprofessional conduct, in that on or about August 13, 2007, Respondent committed battery on his wife. Such assaultive conduct is substantially related to the qualifications, functions, and duties of a registered nurse pursuant to California Code of Regulations, title 16, section 1444, subdivision (a) in that it evidences the present or potential unfitness of Respondent to practice in a manner consistent with the public health, safety, or welfare.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 683900, issued to Eugene 1. Dizon Gomez;
- Ordering Eugene Dizon Gomez to pay the Board of Registered Nursing the 2. reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - Taking such other and further action as deemed necessary and proper.

Assistant Executive Officer Board of Registered Nursing Department of Consumer Affairs State of California

Complainant

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